

(II) IS OF A SPECIFIC INSTANCE OF SEXUAL ACTIVITY SHOWING THE SOURCE OR ORIGIN OF SEMEN, PREGNANCY, DISEASE, OR TRAUMA;

(III) SUPPORTS A CLAIM THAT THE VICTIM HAS AN ULTERIOR MOTIVE TO ACCUSE THE DEFENDANT OF THE CRIME; OR

(IV) IS OFFERED FOR IMPEACHMENT AFTER THE PROSECUTOR HAS PUT THE VICTIM'S PRIOR SEXUAL CONDUCT IN ISSUE.

(C) CLOSED HEARING.

(1) EVIDENCE DESCRIBED IN SUBSECTION (A) OR (B) OF THIS SECTION MAY NOT BE REFERRED TO IN A STATEMENT TO A JURY OR INTRODUCED IN A TRIAL UNLESS THE COURT HAS FIRST HELD A CLOSED HEARING UNDER PARAGRAPH (2) OF THIS SUBSECTION AND DETERMINED THAT THE EVIDENCE IS ADMISSIBLE.

(2) THE COURT MAY RECONSIDER A RULING EXCLUDING THE EVIDENCE AND HOLD AN ADDITIONAL CLOSED HEARING IF NEW INFORMATION IS DISCOVERED DURING THE COURSE OF THE TRIAL THAT MAY MAKE THE EVIDENCE ADMISSIBLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 461A.

In subsection (a) of this section, the former reference to "commission" of a crime is deleted as implicit in the references to specific crimes.

In subsection (b) of this section, the reference to "in a prosecution for rape, a sexual offense in the first or second degree, attempted rape, or an attempted sexual offense in the first or second degree" is added for clarity.

In subsection (c)(1) and (2) of this section, the references to a "closed" hearing are substituted for the former archaic references to an "in camera" hearing.

In subsection (c)(2) of this section, the reference to "reconsider[ing] a ruling excluding evidence and hold[ing] an additional closed hearing" is substituted for the former reference to "order[ing] an in camera hearing" for clarity and accuracy.

The Criminal Law Article Review Committee notes, for the consideration of the General Assembly, that in subsection (b)(2) of this section, the separate requirement for "material" evidence may be obsolete in light of the requirement for "relevant" evidence. *See, e.g., Md. Rule 5-401.*

3-318. SAME — JURY INSTRUCTIONS.

IN A CRIMINAL PROSECUTION UNDER §§ 3-303 THROUGH 3-313 OF THIS SUBTITLE, A JUDGE MAY NOT INSTRUCT THE JURY:

(1) TO EXAMINE THE TESTIMONY OF THE PROSECUTING WITNESS WITH CAUTION, SOLELY BECAUSE OF THE NATURE OF THE CHARGE;